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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-418

11 **JANEAN HAMILTON**
12 **1216 Broadway Street**
13 **Alameda, CA 94501**
14 **Registered Nurse License No. 670038**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

15 **FINDINGS OF FACT**

16 1. On or about December 30, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her
17 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
18 Consumer Affairs, filed Accusation No. 2012-418 against Janean Hamilton (Respondent) before
19 the Board of Registered Nursing. (Accusation attached as Exhibit A.)

20 2. On or about November 30, 2005, the Board of Registered Nursing (Board) issued
21 Registered Nurse License No. 670038 to Respondent. The Registered Nurse License expired on
22 October 31, 2007, and has not been renewed.

23 3. On or about December 30, 2012, Respondent was served by Certified and First Class
24 Mail copies of the Accusation No. 2012-418, Statement to Respondent, Notice of Defense,
25 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
26 and 11507.7) at Respondent's address of record which, pursuant to California Code of
27 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board,
28 which was and is: 1216 Broadway Street, Alameda, CA 94501.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. On or about January 17, 2012, the First Class mail documents were returned by U.S.
5 Postal Service marked "Not Deliverable As Addressed" and on or about February 21, 2012, the
6 Certified Mail documents were returned by U.S. Postal Service marked "Unclaimed." The
7 address on the documents was the same as the address on file with the Board. Respondent failed
8 to maintain an updated address with the Board and the Board has made attempts to serve the
9 Respondent at the address on file. Respondent has not made herself available for service and
10 therefore, has not availed herself of her right to file a notice of defense and appear at hearing.

11 6. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent
13 files a notice of defense, and the notice shall be deemed a specific denial of all parts
14 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

15 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
16 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
17 418.

18 8. California Government Code section 11520 states, in pertinent part:

19 (a) If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions
21 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

22 9. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 2012-418, finds
27 that the charges and allegations in Accusation No. 2012-418, are separately and severally, found
28 to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$357.50 as of March 15, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Janean Hamilton has subjected her Registered Nurse License No. 670038 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Violating Business and Professions Code section 2761, subdivision (a)(4), which authorizes discipline by the Board when disciplinary action is taken by other states, because her Florida Nursing license was placed on probation in 2006 based on discipline taken in 2001 by the Washington Board of Nursing and because her Florida Nursing license was subsequently reprimanded in 2008 for failing to pay the fine and costs imposed by the 2006 probation.

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2 ORDER

3 IT IS SO ORDERED that Registered Nurse License No. 670038, heretofore issued to
4 Respondent Janean Hamilton, is revoked.

5 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
6 written motion requesting that the Decision be vacated and stating the grounds relied on within
7 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
8 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

9 This Decision shall become effective on August 3, 2012.

10 It is so ORDERED July 5, 2012

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13 FOR THE BOARD OF REGISTERED NURSING
14 DEPARTMENT OF CONSUMER AFFAIRS

15 51083184.DOCX
16 DOJ Matter ID:LA2011601440

17 Attachment:
18 Exhibit A: Accusation No. 2012-418
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Exhibit A

Accusation

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2012-418

11 JANEAN HAMILTON

ACCUSATION

12 1216 Broadway Street
13 Alameda, CA 94501

14 Registered Nurse License No. 670038

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about November 30, 2005, the Board issued Registered Nurse License Number
23 670038 to Janean Hamilton ("Respondent"). The Registered Nurse License expired on October
24 31, 2007 and has not been renewed.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
27 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
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1 inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of
2 the Nursing Practice Act.

3 4. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
4 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
5 licensee or to render a decision imposing discipline on the license. Under Code section 2811,
6 subdivision (b), the Board may renew an expired license at any time within eight years after the
7 expiration.

8 5. Section 118 subdivision (b) of the Code grants the Board jurisdiction over suspended,
9 expired, forfeited, cancelled, or surrendered licenses:

10 "The suspension, expiration, or forfeiture by operation of law of a license issued by a board
11 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order
12 of a court of law, or its surrender without the written consent of the board, shall not, during any
13 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
14 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
15 provided by law or to enter an order suspending or revoking the license or otherwise taking
16 disciplinary action against the licensee on any such ground."

17 6. Section 2761 of the Code provides, in pertinent part:

18 "The board may take disciplinary action against a certified or licensed
19 nurse or deny an application for a certificate or license for any of the following:

20 (a) Unprofessional conduct, which includes, but is not limited to, the
21 following:

22 (4) Denial of licensure, revocation, suspension, restriction, or any other
23 disciplinary action against a health care professional license or certificate by another
24 state or territory of the United States, by any other government agency, or by another
25 California health care professional licensing board. A certified copy of the decision
26 or judgment shall be conclusive evidence of that action."

25 COST RECOVERY

26 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licensee found to have committed a violation or violations of
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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Disciplinary Action by the Florida Board of Nursing)**

5 8. Respondent is subject to discipline pursuant to Section 2761, subdivision (a)(4) of the
6 Code on the grounds of unprofessional conduct because she was disciplined by the Florida Board
7 of Nursing ("Florida Board") as follows:

8 9. On or about August 2006, the Florida Board entered findings of fact, conclusions of
9 law, and an order in the disciplinary action entitled *Department of Health v. Janean Hamilton*,
10 case number 2005-59325. The disciplinary action was based upon an Administrative Complaint
11 that alleged Respondent had had her nursing license in the State of Washington disciplined in
12 2001. In a stipulation resolving the Florida disciplinary action, Respondent agreed to pay an
13 administrative fine of \$250 and administrative costs of \$1,257, and agreed to have her license
14 placed on one year's probation.

15 10. On or about April 2008, the Florida Board filed another Administrative Complaint
16 alleging Respondent had violated her probation by failing to pay the \$250 fine or \$1,257 in costs
17 she agreed to pay in 2006.

18 11. On or about June 2008, Respondent agreed to a stipulation reprimanding her license
19 for failing to abide by her previous agreement, ordering her to pay the fines or costs within 60
20 days or face suspension of her license, and ordering her to take a course on "legal aspects of
21 nursing and ethics."

22 12. Under Section 2761 subdivision (a)(4) of the Code the Florida Board's disciplinary
23 action placing Respondent's Florida license on probation in 2006 and reprimanding her license in
24 2008 for failing to comply with the 2006 probation are separate grounds for the California Board
25 to take disciplinary action.

26 **PRAYER**

27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
28 and that following the hearing, the Board of Registered Nursing issue a decision:

1 1. Revoking or suspending Registered Nurse License Number 670038, issued to Janean
2 Hamilton;

3 2. Ordering Janean Hamilton to pay the Board of Registered Nursing the reasonable
4 costs of the investigation and enforcement of this case, pursuant to Business and Professions
5 Code Section 125.3; and,

6 3. Taking such other and further action as deemed necessary and proper.

7 DATED: 12/30/2011

for *Louise Bailey*
LOUISE R. BAILEY, M.Ed., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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